

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Dec 09, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DAVID WAYNE PORTER,

Plaintiff,

v.

STATE OF WASHINGTON and
CHELAN COUNTY,

Defendants.

No. 2:20-cv-00368-SMJ

ORDER OF DISMISSAL

On October 7, 2020, Plaintiff David Wayne Porter, while housed at the Chelan County Regional Justice Center, filed a *pro se* civil rights complaint under 42 U.S.C. § 1983. ECF No. 1. He neither paid the filing fee nor applied to proceed *in forma pauperis* under the Prison Litigation Reform Act, 28 U.S.C. § 1915. He also failed to comply with 28 U.S.C. § 1915(a)(2), which requires a prisoner seeking to bring a civil action without prepayment of the filing fee to submit a certified copy of his or her trust fund account statement (or institutional equivalent) for the six months immediately preceding the filing of the complaint.

By letter dated October 7, 2020, the Clerk's Office advised Plaintiff of these deficiencies, as well as the requirement that he keep the District Court

1 Executive/Clerk informed of any change of address. ECF No. 3. The Clerk's Office
2 provided him with the application to proceed *in forma pauperis* and directed him to
3 complete and return it. *Id.* Plaintiff did not comply with this directive, although on
4 October 29, 2020, Plaintiff did file a Notice of Change of Address, informing the
5 Court that he had moved to the Okanogan County Corrections Center. ECF No. 6.

6 On November 9, 2020, this Court ordered Plaintiff to submit a completed
7 application to proceed *in forma pauperis* and to submit a certified copy of his six-
8 month prisoner trust fund account statement (or institutional equivalent) for the
9 period immediately preceding the filing of the complaint on October 7, 2020 within
10 **twenty-one days** of the date of that Order. ECF No. 7. In the alternative, Plaintiff
11 was advised he could pay the full \$400.00 filing fee. *Id.* Plaintiff was cautioned that
12 his failure to comply would result in the dismissal of this case. *Id.* at 3.

13 A copy of the Order to Comply with Filing Fee Requirements, along with an
14 application to proceed *in forma pauperis*, was sent to Plaintiff at Okanogan County
15 Corrections Center, the last address he provided, but was returned as undeliverable
16 on November 23, 2020. ECF No. 8. The District Court Executive had instructed
17 Plaintiff on October 7, 2020: "If you do not provide written notice of your change
18 of address, the District Court Executive/Clerk cannot be responsible for your
19 inability to receive Court orders and correspondence." ECF No. 3. Although he
20

1 provided one Notice of Change of Address, ECF No. 6, he has failed to keep the
2 Court apprised of his current address.

3 Plaintiff has neither paid the filing fee nor returned the application to proceed
4 *in forma pauperis* along with his six-month inmate trust fund account statement (or
5 institutional equivalent) by the due date of November 30, 2020. The Court must
6 assume that Plaintiff has chosen to abandon this litigation.


7 Accordingly, **IT IS HEREBY ORDERED:**

8 **1.** This action is **DISMISSED WITHOUT PREJUDICE** for failure to
9 pay the filing fee or to comply with the *in forma pauperis* requirements
10 of 28 U.S.C. §§ 1914 and 1915.

11 **2.** The Court certifies any appeal of this dismissal would not be taken in
12 good faith.

13 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order,
14 **ENTER JUDGMENT**, provide copies to Plaintiff at his last known address, and
15 **CLOSE** the file.

16 **DATED** this 9th day of December 2020.

17 
18 SALVADOR MENDEZ, JR.
United States District Judge